IN THE HIGH COURT OF JUDICATURE AT BOBBY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 366 OF 1997

Shri Gulabsco Aminso Mujawar
since deceased, through his heirs
and legal representatives Abdul
Satar Gulabso Mujawar & Anr. ..Appellants

versus

R. R. Tukaram Santaram Patil
Adak Dukan ..Respondent

Mr. S. M. Kamble for the Appellants.
Mr. A. Y. Sakhare, Senior Counsel with P. D. Dalvi for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 5TH APRIL,2005

ORAL ORDER :

1. This appeal is filed by the original defendant - against the order of the Joint Civil Judge, Senior Division, Kolhapur, wherein prayer of the defendant for instalment of the decretal amount was rejected.

2. Counsel for the appellants therefore made only one submission and that is looking to the fact that the appellants are agriculturist and the circumstances in which the loan was taken, the appellants should have been granted facility of paying the decretal amount by instalment. He contended that the appellants are ready to pay instalment of Rs.1 lac per annum and that the first instalment would be payable by the appellants within three months from the date of the order.

3. So far as interest part is concerned, the trial court has awarded interest at the rate of 12% per annum. The suit was filed in 1989 it came to be decreed in 1997. There is nothing on record to show that appellant was responsible for delay, therefore he contended that interest rate, looking to the present rate of interest in the banking sector, should be reduced.

4. On the other hand counsel for the respondent - plaintiff contended that in the circumstances the trial court was justified in rejecting the prayer for instalment. However, he left the matter to the discretion of the court. Therefore in the light of the aforesaid facts, this is a case where the appellants are entitled for instalment of the

decretal amount and reduction of interest. Therefore, I pass the following order:

ORDER

. Decree passed to remain as it is. It will carry interest at the rate of 9% per annum from the date of the suit till realisation.

. Appellants - defendants will pay the decretal amount in yearly instalment of Rs.l,00,000/- (Rupees One lac). The first instalment of Rs.1,00,000/- in that regard will be paid within three months from today and the next instalments on or before 5th May 2006, 5th June, 2006 and so on.

. Appeal is disposed of with no order as to costs of this Appeal.

5.04.2005 (D.G. DESHPANDE, J.)